

Pension Equity

Democratic Backgrounder, May 13, 2003

On Wednesday, the House will consider a pension reform bill (H.R. 1000) that includes provisions similar to those considered last year in the wake of Enron and other corporate pension debacles. This bill was reported by the House Education and Workforce Committee in March and is the first half of an expected one-two punch on pension issues (the Ways and Means Committee has deferred action for now and will likely address pension contribution and tax-status issues in June).

Americans are outraged by growing reports of loopholes that permit companies to protect millions of dollars in pension benefits for a few top executives - out of the reach of creditors and immune from stock market volatility - while the retirement savings of thousands of loyal employees are negotiated away or undercut. Unfortunately, H.R. 1000 is an inadequate response to these problems.

In every respect, their bill fails to provide a solution to the serious pension inequities and risks faced by American employees.

- **H.R. 1000 opens dangerous loophole on financial advisors.** H.R. 1000 allows self-interested investment firms to be the principal financial advisors to employees. H.R. 1000 goes against current efforts by the SEC to eliminate these types of conflicts (\$2 billion in penalties have been imposed to try to "undo" conflicted advice in Wall Street, a serious worsening of the situation since comparable legislation was considered last year). Enron employees lost over \$1 billion in retirement savings due to a quagmire of self-serving and conflicted advice from company officials.
- **H.R. 1000 fails to provide minimum levels of pension equity** between workers and executives. The bill does nothing to establish fair rules to limit runaway executive compensation or protect employees from unfair benefit cuts. This, despite the attention of regulators and shareholders to loopholes in the law that permit companies to protect millions of dollars in pension benefits for a few top executives.
- **H.R. 1000 fails to protect long service workers' pensions in cash balance pension conversions.** The Bush Administration has proposed rules that would allow cash balance pension conversions without any protections for long service employees. Without legislation to stop these regulations, millions of workers will see their pensions slashed by as much as 50 percent.

- **H.R. 1000 locks employees into company stock for long periods against their will and limits employees' legal options.** H.R. 1000 locks employees into their company-matched stock for a complicated, 3-year rolling period, undermining the ability of rank and file workers to diversify and protect their funds if the company fails. The bill also continues current pension rules that severely limit the ability by which harmed employees can be made whole if the pension plan acted irresponsibly. The bill fails to require fiduciaries to have insurance and does not boost Labor Department oversight.

Democrats will offer a substitute that will address significant pension inequities, ensuring that men and women who work hard to make their employers successful are not shortchanged in their retirement options and are given equitable protections to Executives. The Democratic alternative would help level the playing field for rank-and-file employees and company executives when it comes to pensions.

- **The Democratic "Pension Fairness Act" Substitute stops pension inequities** by requiring pensions for executives to be subject to the same equitable pension rules that apply to rank-and-file workers. It would close loopholes that allow special executive pension plans (such as deferred compensation plans, trusts and split dollar plans) to escape taxation, receive special protection against creditors, and to end-run pension laws that require wide employee participation (of both high and low wage workers) under the plan.
- **The Democratic "Pension Fairness Act" Substitute protects older workers' pensions when a company converts to a cash balance plan.** Companies that change from traditional pension plans to cash balance plans must protect older workers by allowing them to choose to stay in the old plan, or sign up for the new plan.
- **The Democratic "Pension Fairness Act" Substitute ends secret pension schemes.** Executive compensation packages including pensions would have to be approved by the board of directors, and companies would have to notify shareholders and employees of any new executive pensions - in plain language - of any additional benefits awarded to executives - 100 days before its adoption.
- **The Democratic "Pension Fairness Act" Substitute requires companies to tell the truth about pensions in labor negotiations.** Employers negotiating with its employees over wages and benefits are required to disclose directly to employees any changes (or proposed changes) in top executives pensions, health, or life insurance, and other substantial job perks, with a penalty for failure to disclose.

- **The Democratic "Pension Fairness Act" Substitute limits golden parachutes at failed companies.** In several recent cases, executives of large corporations resigned and received massive severance packages and retirement benefits even though the shareholders of the corporations were left holding virtually worthless stock. Our substitute would impose an excise tax on executive golden parachutes when they leave behind companies with plummeting shareholder value or facing bankruptcy proceedings.
- **The Democratic "Pension Fairness Act" Substitute stops rewarding executives for manipulating pension funds.** Today, many executives receive bonuses for converting to less costly retirement plans or projecting unrealistic rates of return and under funding them. Instead, corporations should only be able to grant CEO bonuses for real improvement of business operations - not fictitious financial manipulation. Our substitute would prevent firms from deducting more than \$1 million in executive performance-based compensation if it is obtained through manipulation of the company's pension funds.
- **The Democratic "Pension Fairness Act" Substitute subjects executive stock options to same restrictions as company stock in pension plans.** Generally, corporations do not place restrictions on the ability of executives to sell stock that they receive from the exercise of stock options. However, many corporations place restrictions on the ability of rank-and-file employees to sell corporate stock held in their 401(k) plans. Our substitute imposes penalties on executives who sell stock they acquire from stock options if the sale would violate restrictions on the sale of corporate stock that rank-and-file employees face in their 401(k) plans.
- **The Democratic "Pension Fairness Act" Substitute enhances retirement savings for low-income families.** Makes permanent the saver's tax credit, a measure that helps low-income families save for the future.